

ARTICLE 23 VIOLATIONS AND PENALTIES

Sec. 23-1. General Provisions.

- A. Any building erected or improvements constructed contrary to any of the provisions of this Ordinance and any use of any building or land which is conducted, operated or maintained contrary to (i) any of the provisions of this Ordinance, or (ii) any development condition imposed under the provisions of this Ordinance, or (iii) proffer statement accepted by the Board pursuant to this Ordinance or (iv) plan approved under the provisions of this Ordinance, shall be and the same is hereby declared to be unlawful.
- B. Any person, firm or corporation, whether owner, occupant, lessee, principal, agent, employee or otherwise, who violates any of the provisions of this Ordinance, or permits any such violation by act or failure to act, or fails to comply with any of the requirements hereof, or who erects any building or uses any building or land in violation of the provisions of this Ordinance shall be subject to the enforcement provisions of this Part.
- C. Upon becoming aware of any violation of any provisions of this Ordinance, the Zoning Administrator or his Deputy shall serve a notice of such violation on the person committing or permitting the same, which notice shall require such violation to cease within such reasonable time as is specified in such notice (a "Notice of Violation"). After such notice is sent and such violation is not ceased within such reasonable time as is specified in the notice, then the Zoning Administrator may institute such action as necessary to terminate and/or remedy the violation.
- D. If the person responsible for the alleged violation responds in writing to a notice of violation, within thirty (30) days of receipt of such violation, by agreeing to cease and/or remedy said violation, no civil fines shall be levied, if such violation is in fact ceased or remedied within thirty days of such response.
- E. If the person responsible for the alleged violation denies under oath and in writing that a violation exists, he may appeal the decision, determination and/or Notice of Violation issued by the Zoning Administrator or his Deputy pursuant to the provisions of Section 15.2-2311 of the Code of Virginia and this Ordinance. Notwithstanding the provisions of Section 15.2-2311 of the Code of Virginia, a person appealing under this section a Notice of Violation involving temporary or seasonal commercial uses, the parking of commercial trucks in residential zoning districts, or similar short-term or recurring violations shall file their appeal within 10 days of receipt of the Notice of Violation.

- F. In addition to the remedies provided herein, the Zoning Administrator may initiate injunction, mandamus, or any other appropriate legal or equitable action to prevent, enjoin, abate or remove such erection or use in violation of any provision of this Ordinance.
- G. Such civil actions identified in paragraph F herein may also be instituted by any citizen who owns or leases real estate in Culpeper County and who is aggrieved or particularly damaged by any violation of any provisions of this Ordinance.

Sec. 23-2. Criminal Violations and Penalties.

- A. Any violation of the provisions of this Ordinance may be deemed a misdemeanor offense except in cases where the violation results in physical harm or injury to any person, which shall be deemed a misdemeanor and, upon conviction thereof, shall be punishable by a fine of not less than \$10 and not more than \$1000 for each offense. Failure to remove or abate a zoning violation within the time period established by a Court of record shall constitute a separate misdemeanor offense punishable by a fine of not less than \$10 nor more than \$1000 for each violation, and any such failure during any succeeding ten day period shall constitute a separate misdemeanor offense for each ten day period for each violation, punishable by a fine of not less than \$100 nor more than \$1500.
- B. The remedy provided for in this Section shall be in addition to any other remedies provided by law; however, the designation of a particular violation of this Ordinance as a civil infraction pursuant to Sect. 23-3 below shall preclude criminal prosecution or sanctions, except for any infraction which results in injury to any person or persons.

Sec. 23-3. Civil Violations and Penalties.

Any violation of the provisions of this Ordinance other than those set forth in Section 23-2(B) may be deemed a civil violation and, upon an admission of liability or finding of liability, shall be punishable by a fine of ~~\$100.00~~ \$200.00 for the first charge and ~~\$250.00~~ \$500.00 for each additional charge. Each day during which the violation is found to have existed shall constitute a separate offense. However, in no event shall specified violations arising from the same operative set of facts be charged more frequently than once in any ten (10) calendar day period, and in no event shall a series of specified civil violations rising from the same operative set of facts result in civil penalties which exceed a total of \$5,000.00. Nothing in this subsection shall be construed as to prohibit the Zoning Administrator from initiating civil injunction procedures in addition to the aforementioned civil penalties. The designation of a particular violation of this Ordinance as a criminal infraction pursuant to Sec. 23-2 above, shall preclude civil prosecution or sanctions.

Section 23-4. Summons of Violation

- A. After the Zoning Administrator or his Deputy has issued a Notice of Violation on any person committing or permitting a violation of the Zoning Ordinance pursuant to Section 23-1(C), and if such violation has not ceased within such reasonable time as is specified in such notice, the Zoning Administrator or his Deputy may issue a summons to be served personally upon such person or posted in a conspicuous location at the site of the violation.
- B. The summons shall provide that any person summoned for a violation may elect to pay the civil penalty by making an appearance in person or in writing by mail to the County Treasurer's office at least 72 hours prior to the time and date fixed for trial and, by such appearance, may enter a waiver of trial, admit liability, and pay the civil penalty established for the offense charged. Such summons shall provide that a signature to an admission of liability shall have the same force and effect as a judgment of court, however, an admission shall not be deemed a criminal conviction for any purpose.
- C. If a person charged with a violation does not elect to enter a waiver of trial and admit liability, the violation shall be tried in the general district court in the same manner and with the same right of appeal as provided by law. A finding of liability shall not be deemed a criminal conviction for any purpose.